

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

THE CITY OF HUNTINGTON,

Plaintiff,

v.

AMERISOURCEBERGEN DRUG
CORPORATION, *et al.*

Defendants.

Civil Action No. 3:17-01362

CABELL COUNTY COMMISSION,

Plaintiff,

v.

AMERISOURCEBERGEN DRUG
CORPORATION, *et al.*

Defendants.

Civil Action No. 3:17-01665

**CT2 STIPULATION (FIRST):
AMERISOURCEBERGEN DRUG CORPORATION
AND HUNTINGTON/CABELL COUNTY**

COMES NOW AmerisourceBergen Drug Corporation (ABDC) and Plaintiffs, City of Huntington (City) and Cabell County Commission (County), having met and conferred regarding discovery and evidentiary issues the resolution of which required coordination with the MDL2804 PEC and leadership from the WVMLP (19-C-9000). Counsel for County represents he has authority to bind the MDL PEC and speak on behalf of the WVMLP. Based on mutual promises and conditions, ABDC and City/County are pleased to enter into the following stipulation:

1. The Plaintiffs will not depose Steven Collis in the Track Two litigation pending before Judge Faber (CT2), and will not call him as a witness at trial. The Plaintiffs in the West Virginia MLP state proceedings also agree not to depose Steven Collis or call him at a future trial. ABDC will advise the Court that its appeal of Discovery Ruling 11 is now moot.

2. The Plaintiffs' Executive Committee will not request to re-depose Chris Zimmerman, Steve Mays, and David May as part of the proposed order that they intend to submit pursuant to Judge Polster's Order in the MDL dated July 20, 2020. The Plaintiffs in the West Virginia MLP will not seek to re-depose these individuals until after resolution of CT2.

3. The Plaintiffs will not take any additional ABDC depositions (fact and corporate but not including expert) in CT2 and withdraw its Rule 30(b)(6) notice.

4. ABDC agrees to bring Chris Zimmerman, Steve Mays and David May to the CT2 trial to testify live, in person, during Plaintiffs' case-in-chief. Proper notice will be given. The parties agree to continue monitoring the COVID-19 health directives and will address safety issues as they evolve. If the COVID-19 health situation makes that impractical because of changed health circumstances, ABDC and Plaintiffs will confer about the same and other mechanisms for live testimony, including livestream. Plaintiffs will advise the Court that it withdraws its Motion to Allow Live Testimony Through Contemporaneous Transmission from Locations Outside of West Virginia as to ABDC.

5. ABDC and the Plaintiffs will begin a process for reviewing the authenticity and foundation for ABDC-produced documents that Plaintiffs identify between now and trial. The Plaintiffs have expressed a desire to, as much as possible, negate the need for Plaintiffs to bring multiple ABDC witnesses to trial for the sole purpose of authenticating and establishing the proper foundation for use of the identified documents at trial. The parties will work in good faith to

address specific issues relating to authenticity and foundation between now and trial. Plaintiffs will be provided an opportunity to cure all unresolved issues relating to authenticity and foundation, including the ability to depose and/or call a custodial witness at trial. ABDC reserves its right to object to the admissibility of all such documents, including Federal Rules of Evidence 401, 402, 403, and hearsay. The same agreement will apply to the WV MLP.

Dated: August 4, 2020

Respectfully Submitted,

AmerisourceBergen Drug Corporation

/s/ Gretchen M. Callas

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/s/ Paul T. Farrell, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that on August 4, 2020, the forgoing ***CT2 Stipulation (First): Amerisourcebergen Drug Corporation and Huntington/Cabell County*** was sent to Counsel for the Plaintiffs and Defendants using the Court's CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Gretchen M. Callas

Gretchen M. Callas (WVSB # 7136)